

Embargoed Until 10:00 a.m. February 9, 2000

STATEMENT OF PAUL A. VOLCKER
Chairman, Independent Committee of Eminent Persons
before the
COMMITTEE ON BANKING AND FINANCIAL SERVICES
of the
U.S. HOUSE OF REPRESENTATIVES
WASHINGTON, D.C.

February 9, 2000

I appreciate this opportunity to appear before the Committee on Banking and Financial Services to inform you about the results of the investigation of accounts in Swiss banks of victims of Nazi persecution that was conducted by the Independent Committee of Eminent Persons ("ICEP"). I have been privileged to have been invited on two prior occasions to report on the progress of this investigation, once in December 1996 when the investigation was getting started, and again at the end of June of the following year when preliminary work had just been completed. Our investigation utilizing full scale on-site forensic audits of all relevant Swiss banks, was finished in the middle of last year. ICEP's Report and recommendations were made public on December 6, 1999, at a press conference held in Zurich, Switzerland.

The House Banking Committee has taken a major interest in the ICEP investigation as part of your broader focus on the financial and moral

consequences of the Nazi reign of terror in Europe. These efforts have, in turn, been part of an examination of World War II conduct encompassing the United States, as well as other countries. As you so clearly stated, Mr. Chairman, at the opening hearing in December 1996, the restitution of assets of victims of Nazi persecution is an issue of fundamental equity and justice.

In reporting on the results of the ICEP investigation today, I would like to take you through a series of charts that provide a detailed review of the ICEP Report. Before beginning this review, I will put things in context by briefly summarizing the findings of the report and evaluating the significance of these findings. Then I will conclude my initial remarks by describing the ICEP recommendations and the steps that are necessary to implement them.

The ICEP investigation was a remarkable project. It was initiated by an agreement between private parties, the Swiss Bankers Association and the World Jewish Restitution Organization (together with the World Jewish Congress and allied organizations) with the aim of getting to the bottom of the controversy that has surrounded this subject for so many years. The three members and two alternates from each of the two appointing groups then selected me to serve as their Chairman. Auditors from five of the

largest international accounting firms were mandated to carry out a comprehensive investigative strategy developed by ICEP. The strategy basically involved the establishment of a documentary record of the accounts in Swiss banks that were open or opened during the period from 1933 to 1945. This comprehensive record could then be examined to determine which of those accounts were "probably or possibly" opened by victims of Nazi persecution and the ultimate disposition of these accounts.

The auditors estimated that a total of 6.8 million accounts existed in Swiss banks during this period. Of this estimated total, some 4.1 million names of account holders and, in many cases, other relevant information, were identified. The end result of an elaborate filtering process was the determination that 54,000 accounts were identified as "probably or possibly" related to victims, a number many times as large as that emerging from previous Swiss investigations.

I emphasize the words "probably or possibly" because, except in a relatively few cases, after more than half a century, we were not able to identify with certainty an irrefutable relationship between victims and account holders. As explained in the charts forming a part of my presentation today, in the absence of sufficient personal data in the now available records to make positive identifications of account holders, we

used various forms of evidence to establish reasonable connections between account holders and victims of Nazi persecution. These connections warrant the evaluation of these accounts in a claims resolution process. About three-fifths of them had been closed under circumstances that deserve greater scrutiny in this process.

As another important task of the investigation, we examined and assessed the treatment of accounts of victims by Swiss banks. Intensive investigation by our auditors did not find general evidence of systematic destruction of records of victim accounts, organized discrimination against their accounts, or concerted efforts to divert the funds of victims to improper purposes.

Nevertheless, we did find confirmed evidence in individual banks of questionable and deceitful actions in the handling of the accounts of victims, including withholding of information from Holocaust victims or their heirs about their accounts, inappropriate closing of accounts, the failure to keep adequate records, many cases of insensitivity to efforts of victims or heirs of victims to claim dormant or closed accounts, and a general lack of diligence -- even active resistance -- in response to earlier private and official inquiries about dormant accounts.

When our work began, in this room there were some doubts stated

about our ability to get the job done. There was concern expressed about the lack of subpoena power, the structure and funding of ICEP, the scope of access to relevant documents, and about responsibility for reporting any impairment of access. I can now tell this Committee that the ICEP investigation was thorough, probing, and relentless in its search for relevant information.

I can also tell you that on the whole we had sufficient cooperation to allow us to do as complete a job as is now possible after sixty years. In most cases we found willing cooperation, including the large internationally active commercial banks. One measure of this cooperation can be found in concrete form in the full funding of the investigation by Swiss banks in an amount of about \$200 million. I particularly would like to express my appreciation for the cooperation extended by the Swiss Federal Banking Commission ("SFBC"), and its Chairman, Mr. Kurt Hauri, especially by designating our investigation as a "special audit" under Swiss banking law, underlining the clear official support for our effort. In concluding our Report, all members of ICEP expressed their confidence that this subject has now been fully investigated and analyzed. In that sense, ICEP's work is completed.

There is, however, still much that has to be done to satisfy legitimate

claims to dormant accounts in Swiss banks. The Claims Resolution Tribunal ("CRT"), which is supervised by a Board of Trustees composed of some of the members of ICEP including myself as Chairman, was established in 1997. Composed of seventeen distinguished arbitrators, the CRT is finishing its work on the 5,570 dormant accounts identified by Swiss banks in 1997 and prior years, and published at the urging of ICEP in 1997.

The work of resolving claims to the 54,000 accounts identified in the ICEP investigation, in fact of all claims of victims of Nazi persecution to accounts in Swiss banks, must now go forward promptly. ICEP has always proceeded on the assumption that the accounts identified in its investigation would be adjudicated in the CRT as an independent and impartial forum, and has proposed that the established CRT provide that forum.

ICEP has made important recommendations on how this should be done.

- The SFBC should promptly authorize consolidation of the existing but scattered auditor workpapers and databases (established during the ICEP investigation) relating to 4.1 million accounts open in the 1933-1945 period, and assembly of them into a central archive that can be used in a claims

resolution process;

- The SFBC should authorize publication of the names of holders of approximately 25,000 accounts having the highest probability of a relationship to victims of Nazi persecution.
- Any person with a claim to a dormant account of a victim, whether or not the name is published, should be provided facilities for resolving such claims through the CRT. Existing claims compiled by the New York State Holocaust Claims Processing Office and others should be matched against the centralized database of accounts, and resolved by the CRT; and
- To provide a fair return to victims (and their heirs), whose accounts became *de facto* illiquid, individual account values should be adjusted on the basis of long-term Swiss rates of interest, involving multiplying 1945 account values by 10 times.

The decisions on the centralized archive and on the publication of account names need to be taken promptly so that the claims resolution process can begin. Those who have waited so long for accounts to be identified should not have to endure a long wait for the commencement of claims adjudication. These decisions on archive centralization and

account publication are in the hands of the Swiss Government. We understand that a consultation process has begun and that a decision is scheduled for next month.

The precise role of the CRT in the resolution process has been a matter for discussion with the U.S. District Court overseeing the settlement of the class action suit against the Swiss banks brought in the United States. I believe there is a clear sense that the ICEP recommendations should be implemented. On that basis, plans are being made by the CRT for the mechanics of publication of account names, the preparation of claim forms, and the development of systems for the processing of these claims.

What remains is a decision on the funding of the CRT. While not specified in the original memorandum establishing the ICEP investigation, the thrust and spirit of the effort strongly suggests substantial Swiss bank participation in this funding. Clearly, the bottom line cannot finally be drawn under this entire problem until the claims resolution process is successfully completed, a matter, it seems to me, at least as important to Switzerland and the Swiss banking community as to any other interested party.

Finally, before beginning the chart presentation, I would like to note the close relationship between the work that needs to be done to adjudicate claims to individual accounts of victims of Nazi persecution in Swiss banks

and the class action settlement of Holocaust victims claims now being administered by Judge Edward R. Korman, U.S. District Court for the Eastern District of New York. The class action settlement sets the upper limit of \$1.25 billion on the liability of Swiss banks to Holocaust victims. Under the settlement, claimants to deposit accounts have a priority among the various classes of eligible beneficiaries of the settlement, and awards made by the CRT to claimants for deposits in Swiss banks will be deducted from the payments made by the defendant Swiss banks towards fulfilling their \$1.25 billion obligation.

In the judgment of ICEP, claims of victims or their heirs entitled to awards can be satisfied within the settlement amount agreed in the Court proceeding. However, the work of the CRT needs to be closely coordinated with the other elements of the administration of the settlement. To this end, we are working closely with Judge Korman, with the Special Master, Mr. Judah Gribetz, appointed by Judge Korman to develop a plan of distribution of the settlement, and with the Parties to the settlement.